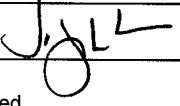



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PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 03-0118 (US01)	
<p>I hereby certify that this correspondence is being deposited with the United States Postal Service via EFW-Web filing system to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450"</p> <p>on <u>April 10, 2007</u></p> <p>Signature <u></u></p> <p>Typed or printed Name <u>Jocelyn L. Lee</u></p>		Application Number 10/623,381	Filed 07/18/03
		First Named Inventor Lex P. Jansen, et al.	
		Art Unit 3738	Examiner Willse, David H.
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p>			
<p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>42,339</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number _____</p>		<p><u></u> Signature</p> <p><u>Michael J. Bolan</u> Typed or printed name</p> <p><u>949-724-1849</u> Telephone number</p> <p><u>4/10/07</u> Date</p>	
<p><input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.</p>			

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:)	
)	Confirmation No.: 3194
Lex P. Jansen, et al.)	
)	Group Art Unit: 3738
Serial No.: 10/623,381)	
)	Examiner: Willse, David H.
Filed: July 18, 2003)	
)	
For: BIOCOMPATIBLE WIRES AND)	
METHODS OF USING SAME TO)	
FILL BONE VOID)	

ARGUMENTS IN SUPPORT OF PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

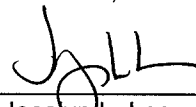
Applicant hereby requests that this panel of examiners review the rejections of claims 25 and 31 under 35 U.S.C. §103 as being obvious over U.S. Patent Publication No. 2004/0024463 ("Thomas").

Claim 25 requires the additional step of spraying uncured bone cement onto the web-like arrangement of wires to interconnect the wires at the points of contact. Claim 31 requires the device that applies the uncured bone cement onto the web-like arrangement of

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4/10/07
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Jocelyn L. Lee

wires to be a spraying device. The Examiner did not specifically delineate the reasoning as to why claims 25 and 31 were anticipated by or obvious over Thomas. The Examiner did point to paragraph [0118] of Thomas for the teaching that it is known to introduce bone cement into vertebrae. However, it is neither known nor obvious to spray the bone cement onto a web-like arrangement of wires within a bone structure.

As discussed in the background of the present application, the prior art contemplated filling the cavity of the fractured vertebra with bone cement to increase the structural integrity of the vertebra. Thus, the most that Thomas suggests is that the cavity of the fractured vertebra is to be filled with a bone cement after implant of the wire. Notably, several problems are associated with this technique, including the filling of any space needed for long-term therapeutic treatment, necrosis of bone tissue due to the heat generating by the bone cement during the curing process, and shrinkage of the bone cement, thereby leaving a loose ball within the vertebral cavity. (See page 2, line 20 to page 3, line 5 of specification). However, by spraying bone cement to stabilize and reinforce of web-arrangement of wires, the structural integrity of a fractured vertebra can be increased without experiencing the problems associated with filling the vertebra cavity with bone cement. (See page 12, lines 13-25 of specification). Thomas does not suggest spraying bone cement on a web-arrangement of wires for this reason or for any other reason.

Based on the foregoing, Applicant respectfully requests that claims 25 and 31 be
allowed.

Respectfully submitted,

VISTA IP LAW GROUP LLP

Dated: April 10, 2007

By: 

Michael J. Bolan
Reg. No. 42,339

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